

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JAMES A BULLOCK
12712 28TH ST W
MILAN IL 61264**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 06A-UI-00957-RT
OC: 01-15-06 R: 12
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.2 (1) (a) & (h) (1) & (2) – Procedures (Backdating Claims)

STATEMENT OF THE CASE:

The claimant, James A. Bullock, filed a timely appeal from an unemployment insurance decision dated January 23, 2006, reference 01, which determined that his request to backdate his claim prior to January 15, 2006, was denied. After due notice was issued, a telephone hearing was held on February 13, 2006, with the claimant participating. There was no employer or respondent. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: The claimant filed for unemployment insurance benefits effective January 15, 2006. However, the claimant had separated from his employer, Rockmount, on December 20, 2005. The claimant did not immediately file a claim for unemployment insurance benefits because he did not want to file a claim. The claimant wanted to find another job and not file for benefits. The claimant began seeking jobs but did not find any and then filed a claim for benefits effective January 15, 2006. His most recent employer, Rockmount, did not induce the claimant not to file nor did the employer coerce or intimidate the claimant into not filing. Iowa Workforce Development did not tell the claimant not to file a claim for unemployment insurance benefits. The claimant just simply waited to file a claim because he did not want to file a claim and then after he could not find a job he filed a claim. Pursuant to his claim for unemployment insurance benefits filed effective January 15, 2006, the claimant has received unemployment insurance benefits in the amount of \$1,296.00 as follows: \$324.00 per week for four weeks from benefit week ending January 21, 2006 to benefit week ending February 11, 2006.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant should be permitted to backdate his claim prior to January 15, 2006 to an effective date of December 18, 2005. The administrative law judge concludes that the claimant should not be permitted to backdate his claim.

871 IAC 24.2(1)a provides:

- a. Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment shall report in person to the nearest workforce development center which takes claims and shall file an initial claim for benefits and register for work.

871 IAC 24.2(1)h(1), (2) and (3) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

- (1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

h. Effective starting date for the benefit year.

- (1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule.

- (2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of the calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

The administrative law judge concludes that the claimant has the burden to prove that he is entitled to backdate his claim for unemployment insurance benefits. The administrative law judge concludes that the claimant has failed to meet his burden of proof to demonstrate by a preponderance of the evidence that he is entitled, or should be entitled, to backdate his claim prior to January 15, 2006 to an effective date of December 18, 2005. The claimant was separated from his most recent employer on December 20, 2005. The only reason given by the claimant for failing to promptly file a claim for unemployment insurance benefits was that he simply did not want to file a claim. However, after seeking jobs and not finding any the claimant filed a claim effective January 15, 2006. There is no evidence that this is a scheduled filing because of a mass lay-off or any evidence that Iowa Workforce Development failed to recognize the expiration of the claimant's previous benefit year. In fact, the claimant did not have a previous benefit year. There is also no evidence that the claimant was given incorrect advice by Iowa Workforce Development. Although the claimant's claim is a combined wage

claim and therefore an interstate claim there is no evidence that the other state determined the claimant was ineligible for benefits. There is also no evidence that the claimant's most recent employer, Rockmount, failed to comply with the provisions of the law or rules or coerced or intimidated the claimant to prevent the filing of his claim. Accordingly, the administrative law judge concludes that the claimant has not demonstrated by a preponderance of the evidence that he is entitled to backdate his claim. The administrative law judge is not without sympathy for the claimant who did not want to file a claim and preferred to look for work and find a job. However, the administrative law judge is constrained to conclude that the claimant has not demonstrated good cause to entitle him to backdate his claim for unemployment insurance benefits. Accordingly, the claimant's request to backdate his claim should be, and it is, hereby denied.

DECISION:

The representative's decision of January 23, 2006, reference 01, is affirmed. The claimant, James A. Bullock, is not permitted to backdate his claim for unemployment insurance benefits prior to January 15, 2005 because he has not demonstrated good cause to entitle him to do so and his request therefore should be, and it is, hereby denied.

kkf/kjw